GOVERNMENT OF KARNATAKA

SOCIAL WELFARE AND LABOUR SECRETARIAT

Labour Dispute :—Industrial Dispute between the workmen and the Management of M/s Mangalore Sea Foods, Bunder, Mangalore.

Award of the Presiding Officer, Labour Court, Mangalore, Published.

Read the following papers :—

(1) Letter No.A ID. 26/77-78, dated 28th January 1978 from Shri P. B. Chougule Presiding Officer, Labour Court, Mangalore.

IN THE LABOUR COURT AT MANGALORE.

Dated Saturday the 28th day of January 1978

Reference (ID) (LCM) No. 26 of 1977

Present :

Shri P.B. Chougule, B.A. (Hons.), LL.B.,

Presiding Officer

Between :—

First Party :—

The Workmen represented by Sri M. Madhavan, Puttanna's Compound, Bhat Nagar, Thokkottu, Permannur P. O., Ullal, South Kanara.

and

Second Party :—

The Mangement of M/s. Mangalore Sea Foods, Bunder, Mangalore.

AWARD

The Government of Karnataka by their Order dated 12th December 1977 have referred the following points of Dispute for adjudication to this Court :—

Points of Dispute

1. " Is the Menagement of M/s. Mangalore Sea Foods, Bunder, Mangalore justified in terminating the services of Sri Madhavan, former clerk, with effect from 26th December 1974 ?

2. If not, what are the reliefs that the workmen entitled to ?" Both the parties to the Reference were served with notice. The I Party has appeared while the II Party has remained absent inspite of the service of notice.

2. The case of the I party workmen briefly stated is thus :—

The I Party was working as a clerk under the II party Management from August 1969 onwards. During the period of his service

under the II Party, there were no adverse remarks against him as regards his conduct and the duty assigned to him. In December 1973 the II Party Management intimated the I Party that his sarvices would be treated afresh from 1st January 1974 denying him all the benefits which a senior was entitled to get. The said action of the II party was strongly opposed by the I Party workman. The II party was displeased with the I Party on account of his auction in asserting his rights as a worker. Therefore, the II Purty with the ulterior intention to find fault with him issued a notice dated 2nd March 1974 alleging that the I Party was responsible for defalcation of some amounts in collusion with Mohammed Ali who was in charge of the accounts. The said allegation of the Management was denied by the I Party workman and be requested the Management to check the Cash Registers to find out the innocence of the I Party. But without considering the same, the II Party issued an enquiry notice dated 29th August 1974 requiring the I Party to be present at an enquiry to be held on 30th September 1974. The I Party submitted a representation that he may be permitted to engage a lawyer during the enquiry and also to make available the accounts Clerk Mohammed Ali for cross-examination, but the said request was rejected. Thus, the II Party management without giving fair and proper opportunity to the I Party held on enquiry on 18th December 1974 and by its notice dated 19th December 1974 intimated the I Party that his services were terminated with effect from 26th December 1974. The II Party has not held the enquiry in a proper and fair manner and the enquiry officer appointed by the II Party was prejudiced and biased. Thus, the so called enquiry was nothing but a farce. The II Party. Management has failed to establish its charges against the I Party by holding a fair and proper enquiry. In the circumstances the action the II Party in terminating the services of the I Party is illegal. Hence it is prayed that the I Party workman may be reinstated in service with back wages and other benefits.

3. As already stated, the II Party Management has not appeared even though duly served with the notice of the Reference. In other words, the Management has not contested the claim of the I Party workman. The I Party workman in support of his case has examined himself and has produced 10 documents Ex. W.1 to W.10. The evidence adduced by the workman has remained uncontroverted. From the said evidence it is revealed that the Management did not permit the workman either to engage an advocate or to engage any other person of his choice to represent him during the enquiry. From the evidence, it is also seen that the Management also refused to make available the Accounts Clerk Mahammed Ali for the cross-examination. It is, therefore, clear that proper and fair opportunity was not given to the workman during the enquiry and as such the enquiry is vitiated. The Management has not adduced any evidence to show that proper opportunity was given to the workman to defend

himself in the conduct of the domestic enquiry. From the absence of the Management before this Court, it appears to me that they have no objection to set aside the dismissal order. For the foregoing reasons, I hold that the II Party Management was not justified in terminating the services of the I Party workman. Therefore, the I Party workman is ordered to be reinstated in service with effect from 26th December 1974 with backwages and other benefits to which he is entitled. He is also entitled to costs of Rs. 50. An Award is passed accordingly.

Dictated to the Stenographer, transcribed and typed by him and corrected by me.

Mangalore,
Dated 28-1-1978.

Sd/-.....,
Presiding Officer,
Labour Court, Mangalore.

"COPY"

....,
Presiding Officer.
Labour Court, Mangalore.

Order No. SWL 20 LLA 78

Bangalore, dated 16th/22nd February 1978.

WHEREAS by State Government Order No. SWL 907 LLD 77, dated 16th December 1977, the Industrial Dispute between the workmen and the Management of M/s Mangalore Sea Foods, Bunder, Mangalore was referred to the Labour Court, Mangalore for adjudication;

AND, WHEREAS the Presiding Officer, Labour Court, Mangalore has submitted to the State Government its award in respect of the said Industrial Dispute..

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Karnataka are pleased to direct the publication of the said Award as above, in the *Karnataka Gazette.*

By Order and in the name of the President of India,

B. MANAMOHAN,
Under Secretary to Government,
Social Welfare and Labour Departments.

2630—S.O. 756